

REMARKS

I. Amendments and Status of the Claims

Claims 10-21 were previously pending. Claim 10 has been amended to incorporate certain subject matter from claims 15 and 16, and new claim 22 has been added. Support for these amendments is found throughout the specification, for example, page 5, lines 9-12, and in original claims 15 and 16. Claims 15 and 16 have been canceled. These amendments add no new matter.

Claims 10-14, 17-19, and 22 are pending and under consideration. Claims 20 and 21 stand withdrawn as being drawn to non-elected species. Office Action, page 2. Applicants respectfully request the Office rejoin claims 20 and 21 and extend the search to the remaining species in view of the following response.

II. Priority Claim

The Office Action indicates that the status of the parent application in the priority claim needs updating. Applicants have inserted the current status of the parent application and respectfully request the Office withdraw this objection.

III. Rejection Under 35 U.S.C. § 102(e)

The Office rejects claims 10-12 and 15-19 under 35 U.S.C. § 102(e) as allegedly anticipated by U.S. 2002/0031527 to Wu et al. ("Wu"). Office Action, page 3.

The earliest possible effective filing date for any subject matter taught by Wu is November 16, 1998, based upon Wu's priority claim to provisional application no. 60/108,606. Applicants previously provided a Rule 1.131 Declaration of Francis Blanche and Shian-Jiun Shih in parent application 09/970,663. A copy of that Rule

1.131 Declaration is enclosed with this response, and Applicants respectfully request that it be made of record in this application. In parent application 09/970,663, the Office also relied upon Wu in rejecting the claims of that application under 35 U.S.C. § 103(a). To overcome the rejection, Applicant provided the Rule 1.131 Declaration establishing that Applicants reduced to practice the invention claimed in the parent application before the priority date of the Wu application. The Office reviewed the Rule 1.131 Declaration and found it sufficient to remove Wu as a reference.

Applicants respectfully submit that the Rule 1.131 Declaration also establishes that reduction to practice of the invention claimed in this application occurred prior to the November 16, 1998, priority date of the Wu patent application. Wu cannot be used as a reference under 35 U.S.C. § 102(e) against the current claims, therefore, because Wu was filed after the claimed invention was made. M.P.E.P. § 715.02. In view of Applicants' earlier date of invention, Applicants respectfully request the Office to withdraw the rejection of record.

IV. Rejection Under 35 U.S.C. § 103(a)

Claims 10 and 13-14 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over U.S. 2002/0031527 to Wu et al. ("Wu") taken with U.S. Patent No. 6,451,256 to Sene et al. ("Sene"). Office Action, page 4.

As noted in the response in Section III, Wu cannot be used as a reference because Wu was filed after the claimed invention was made. Furthermore, Applicants submit that there is no evidence of record that the Sene reference teaches or suggests

the claimed invention. Accordingly, Applicants respectfully request the Office to withdraw this rejection.

V. Obviousness-type Double Patenting Rejection

The Office rejects claims 10-12 and 15-19 under the judicially created doctrine of obviousness-type double patenting as allegedly unpatentable over claims 1-9 and 13-15 of related U.S. Patent No. 6,743,008. Office Action, page 6.

Applicants traverse the rejection. To advance this case to allowance, however, Applicants submit the enclosed terminal disclaimer. Accordingly, Applicants request that the Office withdraw the rejection.

VI. Statutory Double Patenting Rejection

Claims 13 and 14 stand rejected under 35 U.S.C. § 101 as allegedly claiming the same invention as claims 1 and 3 of related U.S. Patent No. 6,734,008. Office Action, page 7.

Claims 13 and 14 depend from claim 10, which has been amended to recite that the buffer is Tris/HCl. Accordingly, claims 13 and 14 are not of the same scope as claims 1 and 3 of U.S. Patent No. 6,734,008. Applicants therefore respectfully request withdrawal of the rejection.

CONCLUSION


In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

If there is any fee due in connection with the filing of this Amendment, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

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